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November 1, 2019

Via ECF:

Magistrate Judge Ramon E. Reyes, Jr.
United States District Court for the Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: *Freedom Mortgage Corporation vs. Timothy Gregg, Nassau County Clerk*
Civil Action #: 19-cv-861

Dear Magistrate Judge Reyes, Jr.:

This Law Firm represents the Plaintiff. I am writing to inform the Court the Defendant has not responded to the Plaintiff's Notice to Take Deposition by Oral Examination, Document Demands, or First Set of Interrogatories ("Combined Demands") that were served on June 27, 2019. The Defendant elected not to serve discovery demands on the Plaintiff.

On September 6, 2019, I e-mailed the Defendant's attorney concerning the Combined Demands and he stated he did not respond because there was a typographical error in the caption of the documents and his client was unaware the documents that referenced the docket number, specifics of the mortgage loan at issue, and caption related to him because his last name was spelled "Grigg" instead of "Gregg" due to a typographical error but did not claim the caption, docket number, or predicate loan information was incorrect. On September 6, 2019 at 11:59 am, the Plaintiff sent the Defendant's attorney a new Combined Demands with the correction.

The Plaintiff and Defendant's attorney spoke via telephone but the Defendant did not produce the required documents or responses. On September 12, 2019 at 4:35 pm, I sent another e-mail to the Defendant's attorney asking when his client is available to be deposed; the e-mail was not responded to. On September 12, 2019 at 4:48 pm, I sent another e-mail referring to Your Honor's Individual Rule III(C)(1). On September 18, 2019 at 3:41 pm, I sent a follow-up e-mail to my September 12, 2019 e-mails. On September 18, 2019 at 3:52 pm, the Defendant's attorney stated he was available on September 19, 2019 at 2:00 pm; I confirmed my availability via e-mail sent at 4:13 pm on September 19, 2019. On September 19, 2019 at 6:27 pm, the Defendant's attorney e-mailed me stating he was unable to speak on that date because of an emergency.

On September 26, 2019 at 11:16 am, I sent another e-mail to the Defendant's attorney to schedule a call. At 11:18 am, I sent an e-mail reminding the Defendant's attorney that discovery is set to close on November 15, 2019. On September 26, 2019 at 12:15 pm, the Defendant's attorney e-mailed and stated he agreed to have responses to the updated discovery demands within 30 days and have the deposition done before Thanksgiving. On September 26, 2019 at 1:21 pm, I e-mailed the Defendant's

attorney and stated the discovery responses must be provided to me by October 30, 2019 and a deposition can be scheduled in mid-November. On October 15, 2019 at 3:28 pm, I e-mailed the Defendant's attorney and inquired when the Defendant is available to attend the required deposition. On October 31, 2019 at 10:32 am, I e-mailed the Defendant's attorney and stated I will be filing this letter regarding non-compliance with discovery if the discovery responses were not provided by October 31, 2019. The Defendant failed to respond to any discovery.

Pursuant to Fed. R. Civ. P. §33(b)(2), the Defendant was required to respond to the Plaintiff's Interrogatories within 30 days after being served. Fed. R. Civ. P. §34(b)(2) provides the Defendant must respond in writing within 30 days after being served. The Defendant failed to meet these time requirements and the time to do so expired. Based on the failure to respond and pursuant to Your Honor's Motion Rules at a Glance Section III(C)(1), the Plaintiff requests leave to file a Fed. R. Civ. P. §37 motion to compel a discovery response or strike the Defendant's answer for failure to respond.

Thank you for your time and consideration.

Respectfully,

/SJV/

Stephen J. Vargas, Esq.

CC via ECF:

David L. Singer, Esq.

The Law Offices of David L. Singer, P.C.

Attorney for Defendant, Timothy Gregg

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